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ABSTRACT

From a legal perspective, teacher evaluations can be a school's most valuable tool when administrators need to pursue or defend personnel actions. The first step in a practical evaluation process is to determine the evaluation's purpose, and the second is to determine what is to be evaluated. Evaluations should focus on factors that actually affect teaching competence and that can be evaluated without denying constitutional rights. The third step is to select suitable evaluation methods. Nonobjective criteria might not be acceptable in some cases, and the National Teacher Examinations have failed to meet court tests in some situations. The fourth step is to select a qualified evaluator. Fifth, the evalaution process must be publicized and implemented. Administrators must make sure their evaluations will be useful by including narrative descriptions of substantive facts as well as comments on how unsatisfactory performance can be improved. Evaluation procedures should incorporate the provision of notice of deficiencies to teachers, avoidance of several possible discriminatory practices, and protection of confidentiality. A checklist of evaluation procedures, a humorous test reviewing points made in the document, and a suggested evaluation policy for school board adoption complete the document. (PGD)

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LEGAL ASPECTS OF EVALUATION

AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS

DALLAS, TEXAS

MARCH 8, 1985

JAMES A. RAPP

When I was asked to present this mornings program, I was a little concerned over whether anyone would actually show up. After all, it is 7:30 in the morning. My concern was heightened when I happen to recall portions of Mark Twain's A_Tramp_Abroad.

In that book, Mark Twain described life at a German university. Students in Twain's day did not enter the university for any particular length of time or for any particular programs. For a small fee, a student merely received a card entitling him to the privileges of the university, and that was the end of it. The student was now ready for business, or play, as the student preferred. If the student elected to work, he found a large list of lectures to choose from. But, attendance was not required.

The result of that system, according the Twain, was that some courses of an unusual nature - I trust not "Legal Aspects of Evaluation" - were often delivered to very slim audiences. In one case, day after day, the lecturer's audience consisted of three students - and always the same three. But one day two of them remained away. The lecturer began as usual, -

"Gentlemen," -

- then, without a smile, he corrected himself, saying, -

"Sir," -

- and went on with his discourse.

I thank you at this early hour for allowing me to begin: Ladies and gentlemen.

THE LEGAL PERSPECTIVE

From a legal perspective, evaluation is potentially the most valuable tool available to a school in its dealings with its teachers and staff. Evaluations may be used ~~offensively in~~ in the defense to determining whether particular teachers should be retained or dismissed, promoted or demoted, reassigned, or tenured. Evaluations may also be used defensively to rebut claims of discrimination, unfair treatment, or a failure to provide a teacher an opportunity to cure shortcomings in performance.

Despite its potential usefulness, evaluation at many schools has become largely ritualistic. Year after year administrators traipse into classrooms, fill out brief forms, and conclude that teacher performance is satisfactory. Ritualistic evaluation is not only useless, but often turns out to be a teacher's "Exhibit A" in responding to his dismissal or other employment action taken. The purpose of this mornings program is to provide some practical guidance on how to make better use of evaluations from a legal perspective.

In preparing for this program, I was little concerned with how I might approach what can be a somewhat involved topic. I finally decided to follow the example of comedian Fr. Guido Sarduchi who used to appear on Saturday Night Live.

In one of his routines, Fr. Sarduchi promised to give a college education in half an hour. His secret was to boil down everything you'd learn in college to what you'd remember ten years after your graduation.

And so, Spanish was boiled down to "Como esta? Muy bien, gracias!" After all, ten years out of school, what do you remember from Spanish other than that?

For economics, all you'd have to learn was: "Supply and demand." The answer to every economics question usually boiled down to supply and demand.

As for English literature: "To be or not to be, that is the question." What else do you remember from Shakespeare?

After Fr. Sarduchi gave his half hour college degree, he offered to teach you everything you'd learn in law school if you had another hour to spare.

In this hour, I don't expect tell you everything you'd learn in law school. What I hope to do is to show you how to make better use of your evaluations and prevent them from being used against you.

DETERMINE WHY YOU EVALUATE

An initial step in using evaluations is to determine just why you will be evaluating teachers. There may be a number of reasons:

1. STATE LAW: A common reason we evaluate teachers is because it's the law. An increasing number of states require teacher evaluation. Demands for teacher competency has motivated legislators to mandate periodic evaluation. Suggestions have even recently been made to require evaluation by federal legislation.

2. CONTRACT: Collectively bargained agreements may also require periodic evaluation of teachers. The purpose is usually to give teachers fair warning of deficiencies in performance.

3. FORMATIVE: On a more idealistic level, evaluations may serve to improve performance and to provide a formal means of giving feedback to teachers and obtain their input. This is sometimes referred to as formative evaluation.

4. SUMMATIVE: On the reverse side of that coin, evaluations may serve as the basis for personnel decisions such as whether to hire or fire. Documentation resulting from evaluations often serve as the evidence and basis for these decisions. This is sometimes referred to as summative evaluation.

5. FAIRNESS: As our society increasingly grasps upon the concept of just simple fairness, evaluation is increasingly considered a matter of simple fairness. And, indeed, where a court finds that a teacher has been treated fairly, the court is more likely to uphold whatever action has been taken.

6. STANDARD OPERATING PROCEDURE: Probably the worse reason for evaluation is: "We've always done it!"

Of these reasons for evaluation, educators will normally emphasize formative purposes. Ask an educator why evaluate and he'll respond to promote staff development; to improve instruction; to keep abreast of educational changes; to stimulate creative ideas, and similar well intentioned goals.

The legal aspects of evaluation, however, require a bit less idealism. Where a probationary teacher is involved the purpose boils down to: "Should we keep this teacher beyond the probationary period? For a tenured teacher: "Should we retain this teacher?"

DETERMINE WHAT IS TO BE EVALUATED

After the purposes of evaluation are determined, you must next determine what is to be evaluated. Unfortunately, educational researchers have spent almost endless hours trying to devise a satisfactory measure of teacher competence. According to one author, some disgruntled researchers have opined that a defensible index of teaching skill ranks third behind two other targets among mankind's perennial quests. The first two are The Holy Grail and The Fountain of Youth.

However unattainable a valid index of teaching skill may be, a school must determine what is expected of its teachers. It is difficult to determine just what makes a good teacher. For example, most evaluation forms I have examined rates whether a

teacher dresses neatly. The best teachers I've ever had looked like they slept in their only suit. As you determine what is to be evaluated, make certain it really has something to do with teacher competence.

In determining what is to be evaluated, I would recommend Goodwin and Smith's book entitled "Faculty and Administrator Evaluation: Constructing the Instruments." There are no doubt similar books as well. It contains page after page of items which you may wish to evaluate. It helps get those wheels turning.

Once its is preliminarily determined what will be evaluated, it is important to then take a second look to determine whether any of the items planned to be considered do or could infringe on any constitutional or other rights of the teachers to be evaluated. For example, as part of an evaluation of a teacher's dress, an administrator may wish to criticize a teacher because he wears a beard. The majority of states allow boards to insist that a teacher remove a beard. A minority of states, however, believe that a teacher has a right to control his own personal appearance and that it is a violation of a teacher's liberty interest protected by the Fourteenth Amendment to require removal of a beard.

There are a host of items which can or cannot be considered in an evaluation depending on the law of your state.

An example:

Can you consider whether a teacher is critical of the board of education or school officials? The answer: It depends.

Like any other person, a teacher has a right under the First Amendment to comment on matters of public concern, even if he is highly critical of the board or school officials. On the other hand, a board has an interest in assuring the efficient performance of the school which justifies regulation of the speech of a teacher in circumstances in which that speech materially and substantially threatens the efficiency of school operations.

To determine which of these interests will predominate, the United States Supreme Court employs a balancing test. Factors such as: the content of the speech; the effect on actual operations of the school; relations with and among co-workers; the reaction, if any, of the students; and the time, place, and manner in which the speech or expression is made.

In general, where a teacher is addressing a matter of public concern, the speech will be protected. Where a teacher is merely addressing a matter of private concern, however, such as their personal working conditions, it may not be protected unless some special circumstances exist such as responding to an invitation to address the board of education or exercising a right to respond to an evaluation.

Another example:

Can you consider whether a teacher's children attend public schools? Again, it depends.

The majority of courts prohibit a school board policy which requires parents who teach in a public school from sending their children to private schools. A minority, however, allow such a regulation.

This all may seem quite basic. However, it is surprisingly common for evaluation reports to give teachers a "smoking gun" to show that they were dismissed for unconstitutional reasons. It may not always be as raw as saying that the teacher is being dismissed for a particular public remark. It may be cloaked with a comment like "this teacher has a bad attitude about the school." But they show up.

You should become more familiar with the constitutional issues arising in education law. Further, you should have your attorney review your evaluation materials to make certain than improper considerations are not, in fact, being considered.

DETERMINE HOW TO EVALUATE

Your next task will be to determine just how to evaluate.

Many different approaches are available:

1. RATINGS: The most widely employed evaluation technique is the rating. Basically, a list of rating categories are established, such as my favorite "neatness of dress," and the teacher rated as to whether the teacher is satisfactory or unsatisfactory in that category. Ratings may be made by administrators, fellow teachers, students or others.

2. SYSTEMATIC OBSERVATIONS: Another evaluation technique is systematic observation. While a rating generally requires the rater to make some sort of evaluative judgement such as whether a teacher is satisfactory or unsatisfactory as to some particular item, someone using a systematic-observation approach is only

required to assert whether a specified behavior occurred, such as whether the teacher "writes on the chalkboard." In theory, if certain behavior occurs, the teacher must be satisfactory, and if it doesn't occur, the teacher must be unsatisfactory.

3. PUPIL TEST PERFORMANCE: A third evaluation technique is pupil performance. The simple premise is that a teacher must be satisfactory if students learn and must be unsatisfactory if students don't learn. It's akin to Aristole's comment in the book Politics that a better notion of the merits of a dinner is received from the guests than from the cook.

4. TEACHING PERFORMANCE TESTS: A recent option for teacher evaluation has been the use of teacher competency or performance tests. Competency tests have generally involved the National Teachers Examinations or some equivalent. Performance tests usually involve a test whereby a teacher is given a specific instructional objective and an opportunity to prepare a lesson plan and teach a small group of students. The students are then tested to determine whether they learned.

Which of these or other evaluation techniques are selected will depend on many considerations: Numbers of teachers to be evaluated, financial resources available, time to evaluate, etc., etc. From the legal perspective, several legal issues have arisen with respect to which may be selected.

SUBJECTIVE VERSUS OBJECTIVE CONSIDERATIONS

One legal issue which is sometimes raised is that the criteria being used for evaluation is subjective, rather than objective. Obviously, ratings will inherently be more subjective than, say, systematic observations. This claim has generally not met with success except in the context of discrimination. In discrimination cases, a person may claim that subjective criteria is more likely to be a pretext for discrimination than objective criteria.

NATIONAL TEACHER EXAMINATIONS

Probably the most rapidly developing legal issue regarding the method of teacher evaluation has been the use of competency tests such as the National Teacher Examinations. Interest in the NTE tests was obviously motivated by a desire to obtain an objective criteria for evaluation.

The NTE tests are made up of several parts. There is a Core Battery, which measures areas common to most teacher education programs such as communication skills, general knowledge and professional knowledge. There are Pre-Professional Skills Tests, which measure basic proficiency in reading, writing and mathematics. Finally, there are some 27 Specialty Area tests, designed to assess examinees' preparation in specific subject fields.

An educational institution clearly has the right to adopt academic requirements and written achievement tests designed and

validated to disclose the minimum amount of knowledge necessary for effective teaching when first employing a teacher. However, the courts have been hesitant to allow the use of the NTE tests or some equivalent for purposes other than initial employment. Thus, courts have generally been unwilling to allow their use as an evaluation method.

There are a number of reasons courts have rejected NTE tests as an evaluation method:

First, courts have found that the NTE tests were never intended for use in evaluating experienced teachers. Under the guidelines for the tests, they are intended for use only if an adequate and reliable record of a teacher's in-service performance is not available. Thus, while the tests may be useful as part of a teacher selection program, they are typically not appropriately used to determine whether in-service teachers should be retained. Indeed, the guidelines state that the examinations "should not be used, either directly or indirectly, for determining the compensation, retention, termination, advancement, pay supplements, or change in provisional employment status of teachers once they are employed."

Second, courts also have found in varying contexts that use of the examinations may adversely affect Black teachers and be unlawful under anti-discrimination laws.

Although NTE examinations have not fared well before the courts where used as means of evaluating experienced teachers, one court did hold that the NTE or similar tests may be used as a reliable and economical means for measuring one element of effective

teaching for salary purposes-the degree of knowledge possessed by the teacher.

EVALUATOR

Another legal issue which has arisen relative to the method of evaluation is just who must do the evaluation. In one case, a teacher argued that under state law, a superintendent could not perform teacher evaluations and that evaluations had to be performed by the board of education itself. The trial court actually agreed. However, this decision was reversed. The reviewing court held that board members generally lack the qualifications to evaluate professional competency. Therefore, teachers may be evaluated by any qualified person designated by the board.

Although I would suspect that this view is universal absent some specific statute or requirement to the contrary, it is worthy of note that you should consider just who should be the evaluator. Check your state's statutes or regulations, your collectively bargained agreements, your board policies, and other requirements to make certain that there is not some other requirement. Further, the board of education should establish a policy specifically authorizing evaluation by a designated person.

PUBLICIZE YOUR EVALUATION PROCEDURES AND CRITERIA

Once developed, a school's evaluation procedures and criteria should be publicized and teacher's comments and suggestions welcomed. Courts are less likely to question those procedures and criteria if publicized.

IMPLEMENT YOUR EVALUATION PROCEDURES

Once a school has developed evaluation procedures, implement them. A developing area of education law is the effect of a failure by a school to implement its evaluation procedures.

Courts generally follow the view that where evaluation procedures are imposed by state law or adopted by regulation or board policy for the purpose of determining whether to terminate teachers, those procedures must be followed if the school wishes to reduce staff or discharge, demote or transfer a teacher. A board must follow the law or its own policies. This is particularly true when tenure rights are involved.

On the contrary, where evaluations are used primarily for the purpose of simply improving the quality of teaching, and only incidentally for the purpose of retention or dismissal decisions, failure to follow evaluation procedures will not vitiate a decision to terminate a teacher or other employment decision.

The lesson is very clear: If you have evaluation procedures, follow them.

MAKE YOUR EVALUATIONS USEFUL

When implementing your evaluation procedures, make your evaluations useful.

On more than one occasion I have been involved in cases where an administrator would say that such and such a teacher was incompetent and must be fired immediately. I request copies of all evaluations of the teacher. Lo and behold, the evaluations reflect that the teacher is satisfactory in all respects except a few trivial points like they didn't empty their waste baskets enough. The foundation of the case just isn't there. These ritualized evaluations became the teacher's best shield against dismissal.

To make evaluations useful, you must develop proper evaluation tools. I'll tell you right now that's not some one page list of buzz words like "neatness of dress" followed by a rating of "satisfactory," "needs improvement," and "unsatisfactory." And, I can assure you that lots of evaluations are little more.

To be useful in a legal setting, evaluations must be fact oriented. While checklists may be useful to highlight areas to be evaluated, when a deficiency arises, a narrative description is most useful.

If a teacher's "neatness of dress" is unsatisfactory, you must state the facts upon which this conclusion is based: "The zipper on your pants has been broken for the last two weeks." Further, you should guide the teacher on how to remedy the deficiency: "You must get your zipper fixed or get a new pair of pants."

Very simply, where a teacher establishes that he never received any criticisms, written or otherwise, as to how he could better perform his duties, a court is not inclined to dismiss him. On the contrary, where you have pointed out his shortcomings and attempted to help him improve his performance, a court is inclined to support a decision to dismiss the teacher.

Fact oriented evaluation requires preparation. You must observe what I as an attorney and a judge as reviewer of the facts might not notice. For most attorneys and judges, for example, teaching is teaching. It's a lot like a person who is unfamiliar with cattle. A cow is a cow. For the Masai of East Africa, however, a cow is not just a cow. The Masai were a group of people whose chief occupation was raising cattle. The Masai had at least 17 terms for cattle. A cow with one calf, a cow with two calves, and a sterile cow were all referred to with separate words. As evaluators, you must give attorneys and judges the perspective of knowing what makes up satisfactory teaching and how a particular teacher fails to measure up.

PROVIDE NOTICE OF DEFICIENCIES

As part of the evaluation procedures, a school should give the teacher notice of any deficiencies in performance. In most states, it is sufficient for the evaluator to directly advise the teacher of his shortcomings. Some states, however, require that a more formal notice be given if the deficiencies will later be used as grounds for dismissal. In my home state of Illinois, for example,

prior to seeking the dismissal of a tenured teacher, a notice to remedy must be given by the board of education itself if the grounds for dismissal are remediable or could be corrected in a reasonable time.

AVOID DISCRIMINATORY EVALUATIONS

When evaluating, avoid discriminatory evaluations. Where a person is evaluated who is a member of a minority group, a charge of discrimination may be made if some adverse action is taken. Indeed, probably the single greatest number of cases involving evaluation arise from such charges.

What are typical circumstances in which discrimination may be charged?

1. DESEGREGATION CASES: Desegregation has not only resulted in the displacement of students, but teachers as well. When teachers are required to be dismissed or reassigned as a result of court-ordered desegregation, evaluations are often made to determine just which teachers would be dismissed or reassigned.

In an early desegregation case, it was held that where an absolute reduction in staff is required as a result of court-ordered desegregation, the staff dismissed or demoted must "be selected on the basis of objective and reasonable non-discriminatory standards" developed and promulgated by the board of education prior to evaluation. This and other rights, commonly known as Singleton rights after the name of the case, signaled others that strict evaluation standards would be required rather

than allowing unbridled discretion on the part of a board. Some courts have allowed greater discretion, but they are in the minority.

2. TITLE VII: Another basis for challenging evaluations as discriminatory is Title VII of the Civil Rights Act of 1964 or other anti-discrimination legislation. Title VII prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. Other statutes prohibit discrimination on account of age and various other considerations.

Discrimination generally involves either disparate treatment or disparate impact. If a specific teacher is evaluated an unsatisfactory teacher because he is Black while equivalent teachers are evaluated as satisfactory, the evaluator may be guilty of disparate treatment. If the system of evaluation generally discriminates against Blacks, discrimination may occur as a result of the procedures' disparate impact upon Blacks. For example, in some situations, the NTE tests have been held to have disparate impact upon Blacks and its use was accordingly illegal.

3. VIOLATION OF OTHER RIGHTS: Discrimination may arise in many situations other than what is generally considered discrimination. Teachers have a host of other rights such a free speech, rights of association, etc., etc. I previously mentioned that such rights may not be considered in an evaluation. I wish to reiterate that again.

4. OUT-TO-GET-YOU: Still another basis for challenging evaluations as discriminatory is the I'm-out-to-get-you

evaluation. Courts are suspicious of declining performance evaluations. They assume there is an ulterior motive.

In one case, for example, a court concluded that a teacher's declining evaluations were traceable to her union activities. While the administrator doing the evaluation did not lower ratings on easily challenged items such as "knowledge of subject," more subjective matters were tinted such a "pupil rapport" and "classroom atmosphere." The court ordered the teacher reinstated and awarded back pay and attorneys fees.

You might think that all this talk about avoiding discriminatory evaluations is rather basic, and perhaps it is. Nevertheless, it is surprising just how foolish some administrators are. Just recently I reviewed a teacher's evaluation and it criticized the individual, who was a naturalized citizen, because he "talked like he was from a foreign country." Not only did that appear in the evaluation made by the teacher's immediate supervisor, but the ultimate reviewer reiterated it and said "that's right." Needless to say, that teacher was recently reinstated.

After all this effort to make you sensitive to discrimination claims, I don't want you to become a coward. If a teacher should be fired, you shouldn't be scared off just because the teacher is active in a union or otherwise has a potential anti-discrimination shield to raise. First of all, I believe that most administrators can evaluate without being discriminatory. Second, even if there is a tint of discrimination, the United States Supreme Court has held that where there is a mixed motive, the action will be

sustained if it is clear that the employment action would have been taken even in the absence of the alleged discrimination.

PROTECT THE CONFIDENTIALITY OF EVALUATIONS

After evaluations are completed, you will be left with a multitude of records. As a final legal consideration regarding evaluation, you should be certain to protect the confidentiality of those records.

Confidentiality has always been considered an integral element of teacher evaluation. Board policies often provide that they will be kept confidential except in connection with an employment action. Collectively bargained agreements have often required confidentiality. More recently, state legislation has required confidentiality. Even absent these more specific requirements, a teacher's right of privacy may limit disclosure and disclosure could require that certain due process rights be accorded a teacher when taking an employment action which would not otherwise be required.

Courts have traditionally been sympathetic to the need to preserve the confidentiality of evaluations. More recently, this has eroded somewhat.

Most of the litigation in this area has involved peer review records. In order to assure that peer reviews are completely frank, candid and unhindered by concern over the effect of such reviews on professional relationship, confidentiality has been maintained. As schools have found themselves subjected to more and

more employment discriminatioin claims, courts have had to determine whether this confidentiality should be violated.

In determining whether peer review records must be disclosed, courts have generally allowed access to evaluations if they tended to establish a prima facie case of alleged discrimination. Access is also allowed where the school uses the evaluations to defend a claim of discrimination. Where evaluations neither establish allege discrimination nor are used in the defense of a discrimination claim, courts will not require disclosure.

CONCLUSION

As I began this morning, I said that evaluation is potentially the most valuable tool available to a school in its dealings with its teachers and staff. To make evaluation useful, you must:

1. Determine why you evaluate;
2. Determine what is to be evaluated;
3. Determine how to evaluate;
4. Publicize your evaluation procedures and criteria;
5. Implement your evaluation procedures;
6. Make your evaluations useful;
7. Provide notice of deficiencies;
8. Avoid discriminatory evaluations; and,
9. Protect the confidentiality of evaluations.

In closing, I would urge that you follow the motto which appeared at a retreat house. Its motto was: "There are no problems, only opportunities." A fellow checked into the house,

went to his room and then returned to the desk clerk. He nervously told the clerk that he had a problem. The clerk reminded him that: "There are no problems, only opportunities." He responded, "You can call it what you want, but there is a woman in my room."

Use the opportunity which evaluation provides.

Thank you.

LEGAL ASPECTS OF EVALUATION
AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS
DALLAS, TEXAS
MARCH 8, 1985
JAMES A. RAPP

CHECKLIST REGARDING EVALUATION

[ ] Determine why teachers and staff will be evaluated
  [ ] State law
  [ ] Collectively bargained agreement
  [ ] Formative purposes
  [ ] Summative purposes
  [ ] Fairness
  [ ] Other: _____

[ ] Determine what is to be evaluated

[ ] Determine whether any matters to be evaluated violate any constitutional or other rights

[ ] Determine how teachers and staff will be evaluated
  [ ] Ratings
  [ ] Systematic observations
  [ ] Pupil test performance
  [ ] Teaching performance tests
  [ ] Other: _____

[ ] Formalize evaluation process with written policies and procedures

[ ] Publicize evaluation procedures and criteria

[ ] Implement evaluation procedures
  [ ] Make the evaluations useful
  [ ] Provide notice of deficiencies
  [ ] Avoid discriminatory evaluations

[ ] Protect the confidentiality of evaluations

TEST TO EVALUATE WHAT YOU'VE LEARNED

A. Among mankind's perennial quests are the following:
  1. The Fountain of Youth
  2. The Holy Grail
  3. A valid index of teaching skill
  4. All of the above

B. The Masai of East Africa:
   1. Are the equivalent of the Ewings of Dallas
   2. Have 17 terms for cattle
   3. Developed the first minimum competency test for teachers
   4. All of the above

C. According to Aristole:
   1. You will get a better notion of the merits of a dinner from the guests than from the cook
   2. Evaluation is required in a democratic civilization
   3. Socrates got what he deserved
   4. All of the above

D. Quincy, Illinois, is:
   1. A suburb of Chicago
   2. Located on someone's belly button
   3. Located along the Mississippi River
   4. All of the above

E. One book which every school administrator should have:
   1. Education Law by James A. Rapp
   2. Education Law by James A. Rapp
   3. Education Law by James A. Rapp
   4. All of the above

BOARD POLICY REGARDING EVALUATION

A. PURPOSE AND INTENT: Under the laws of the State of [name], the board of education is required to provide by rule or contract for the evaluation of the performance and qualifications of teachers. [Statutory citation.] It is the purpose and intent of this policy to comply with this mandate. While this policy has been adopted primarily to comply with this mandate, the board of education has established this policy to serve other purposes as well including, among others, to improve instruction; provide for professional growth and development; enhance teaching effectiveness; aid in course development; help teachers find and understand their weaknesses and strengths; stimulate creative thinking and innovation; facilitate and exchange idea; and improve future performance of teachers.

B. GENERAL RESPONSIBILITY: The general responsibility for the evaluation of teachers is vested in the [chief administrative officer] of the school district. In the exercise of this responsibility, the [chief administrative officer] shall have the power and it shall be his or her duty to administer, supervise and assure the implementation of this policy. The [chief administrative officer] shall specifically have authority to promulgate such further rules, regulations and procedures as may be necessary or appropriate to give effect to this policy.

C. COMMITTEE ON TEACHER EVALUATION: The [chief administrative officer] shall from time to time appoint a Committee on Teacher Evaluation to consist of [number] faculty members and [number]

administrators or supervisors. Members of the Committee shall serve as the pleasure of the [chief administrative officer]. The Committee on Teacher Evaluation shall serve as an advisory committee to the [chief administrative officer] relative to the evaluation of teachers. In such capacity, the Committee shall assist the [chief administrative officer] relative to his or her duties and responsibilities hereunder. Such assistance may include the development of evaluation instruments, review of evaluations performed and make recommendations for improved evaluation techniques.

D. PROCEDURES FOR EVALUATION:

1. CRITERIA FOR EVALUATION: The evaluation of teachers shall be based on various factors. Such factors may include, among such others as may be prescribed by the [chief administrative officer], the following:

a. Individual characteristics of the teacher such as attitude, integrity, initiative, enthusiasm, consideration, language, punctuality, knowledge, poise, thoughtfulness, dynamics, grooming, flexibility, open-mindedness, motivation, image, work quality, work habits and similar characteristics;

b. Compliance with the organizational and administrative policies established and related duties;

c. Instructional delivery such as classroom climate, student involvement, critical thinking, questioning, explanations, communicative skills, organization, presentation, techniques, use of time, and recognition of individual student differences;

d. Course content such as objectives, outlines, organization and the like;

e. Course materials;

f. Teacher preparation;

g. Scholarly activity;

h. Professional development and growth;

i. Peer relations;

j. Student-teacher interaction;

k. Student relations;

l. Correction of matters raised in previous evaluations; and,

m. Other relevant factors.

[NOTE: Where court-ordered desegregation is involved, a school will often be limited to using objective and reasonable non-discriminatory standards. An example of such factors include:

<u>Teachers</u>

a. Certification Status:

i. Type of certificate

ii. Approved teaching fields

iii. Whether accepted for certification study by an institution accredited by the National Council for the Accreditation of Teacher Education and, if so, amount of credit accumulated toward the certification.

b. Number of years of experience:
i. In the teaching profession.
ii. In the grade, subject or position which the teacher currently teaches or occupies, or is applying for.
iii. In the system.
c. Degree or degrees:
i. Degree or degrees held.
ii. Number of hours beyond degree.
d. Courses or special training not otherwise stated that would apply to present position or position seeking, whether voluntary or involuntary and date.
e. Appointments or elections to professional groups, workshops, seminars, etc.
f. Professional honors, awards, citations, publications, etc.

Principals
a. Number of years of experience:
i. As a principal in any system.
ii. As a principal in this system.
iii. In education other than as principal.
b. Degree or degrees:
i. Degree or degrees held.
ii. Number of hours beyond degree.

Coaches
a. Number of years of experience:
i. As a coach in any system.
ii. As a coach in this system.
b. Experience in administration of athletic programs:
i. Total.
ii. In system
iii. Administrative positions held.
c. Sports coached and [illegible].
d. College participation in what sports.
e. Degree or degrees held.]

2. EVALUATIONS: Teachers shall be evaluated at least [once, twice, etc.] annually, or more often as the [chief administrative officer] shall determine. Such evaluations shall be performed principally by [position], but may include alternative or additional evaluations by others designated by the [chief administrative officer]. All teachers are expected to cooperate fully in the conduct of evaluations.

3. METHODS: The methods of evaluation shall be prescribed by the [chief administrative officer] after consultation with the person or persons to perform individual evaluations. Such methods should be appropriately based on the type of service or program performed by the teacher. Such methods may, however, include administrative and supervisory evaluations, one or more classroom visits annually, student evaluations, peer evaluations, self-evaluations, audio or video taping of classes or other methods.

4. FORMAT: The format of evaluation shall be prescribed by the [chief administrative officer] after consultation with the

person or persons assigned to perform individual evaluations. Evaluations shall, however, include at a minimum a narrative evaluation of the teacher's performance and qualifications.

5. REVIEW: After any evaluation is completed, such evaluation shall be discussed with the teacher by the [chief administrative officer] or some person or persons designated by the [chief administrative officer]. The teacher shall be entitled to file a written response to the evaluation within [number] calendar days following the evaluation which shall be kept with the evaluation report. In addition to whatever other response the teacher desires to make, the response shall include any complaint which the teacher has, if any, relative to the fairness or application of the evaluation procedures to the teacher.

F. RECOMMENDATION: Based on the evaluation or evaluations performed and any other relevant information, the [chief administrative officer] or some person or person designated by the [chief administrative officer] shall annually advised the board of education whether a teacher should be retained, dismissed or some other employment action taken.

[NOTE: If a notice to remedy or notice of deficiencies must be given by the board of education, the policy should be revised requiring recommendations of such notices.]

G. AMENDMENT AND REPEAL: This policy supersedes and replaces all prior policies on teacher evaluation. The board of education specifically reserves the right at any time to amend or repeal this policy.

H. FAILURE TO EVALUATE: Except as may otherwise be required by law, this evaluation policy does not establish or create any right to be evaluated in accordance with this policy or otherwise. A failure to evaluate in accordance with this policy or otherwise does not prevent the board of education from taking any action with respect to a teacher allowed by law.

SELECTED BIBLIOGRAPHY REGARDING EVALUATION

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